

STRASSBURGER MCKENNA

GUTNICK & POTTER

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

322 BOULEVARD OF THE ALLIES

SUITE 700

PITTSBURGH, PENNSYLVANIA 15222

412-281-5423

FAX # (412) 281-8264

PITTSBURGH, PENNSYLVANIA

GREENSBURG, PENNSYLVANIA

RECORDATION NO. 20483 FILED 1A25

JAN 14 1997 -3 45 PM

20483-7

JAN 14 1997 -3 11 PM

January 8, 1997

DOCUMENTS FOR RECORDATION

VIA UPS OVERNIGHT DELIVERY

Surface Transportation Board
Office of the Secretary
1201 Constitution Avenue NW
Room 2311
Washington, DC 20423

RECEIVED
SURFACE TRANSPORTATION
BOARD

JAN 9 11 07 AM '97

RE: DOCUMENTS FOR RECORDATION

- 1. Equipment Lease Agreement dated December 31, 1996 between Senstar Finance Company, Lessor and Cyprus Cumberland Resources Corporation, Lessee**
- 2. Lease Supplement No. L076100 dated December 31, 1996 to the Equipment Lease Agreement dated December 31, 1996 between Senstar Finance Company, Lessor, and Cyprus Cumberland Resources Corporation, Lessee**

Dear Secretary:

I have enclosed one original and one counterpart of the documents described below to be recorded pursuant to Section 11301 of Title 49 of the U.S. Code.

The documents are (1) an Equipment Lease Agreement and (2) a Lease Supplement No. L076100, which are primary documents, dated December 31, 1996.

The names and addresses of the parties to the documents are as follows:

Lessor - Senstar Finance Company, One Oxford Centre, 36th Floor,
301 Grant Street, Pittsburgh, PA 15219

Lessee - Cyprus Cumberland Resources Corporation, 145 Elm Street,
Waynesburg, PA 15370

Vendor - Trinity Industries, Inc., 2525 Stemmons Freeway, Dallas, TX
75207

**STRASSBURGER MCKENNA
GUTNICK & POTTER**

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

322 BOULEVARD OF THE ALLIES

SUITE 700

PITTSBURGH, PENNSYLVANIA 15222

412-281-5423

FAX # (412) 281-8264

January 13, 1997

VIA UPS OVERNIGHT DELIVERY

Ms. Janice Fort
Surface Transportation Board
Room 2311 - Document Recording
1201 Constitution Avenue NW
Washington, DC 20423

RECORDATION NO. _____ FILED 1425

JAN 14 1997 3 45 PM

RECEIVED
SURFACE TRANSPORTATION
BOARD
JAN 14 3 39 PM '97

Re: DOCUMENTS FOR RECORDATION

- 1. Equipment Lease Agreement dated December 31, 1996 between Senstar Finance Company, Lessor and Cyprus Cumberland Resources Corporation, Lessee**
- 2. Lease Supplement No. L076100 dated December 31, 1996 to the Equipment Lease Agreement dated December 31, 1996 between Senstar Finance Company, Lessor, and Cyprus Cumberland Resources Corporation, Lessee**

Dear Ms. Fort:

As a follow up to our January 10, 1997 telephone conversation, enclosed please find our check in the amount of \$44 00 payable to the Surface Transportation Board which is the recording fee for the two documents which were delivered to the Office of the Secretary and subsequently to you for recording pursuant to my January 8, 1997 letter (copy enclosed).

We apologize for inadvertently not enclosing this check in our January 8, 1997 letter. Thank you for prompt assistance in connection with this matter.

Please feel free to call me if I can be of any further assistance or if you need any additional information in connection with the recording of the above-referenced Equipment Lease Agreement and Lease Supplement.

Very truly yours,



Walter D. Enick

WDE/klh
Enclosures

STRASSBURGER McKENNA GUTNICK & POTTER

Surface Transportation Board
January 8, 1997
Page 2

A description of the equipment covered by the documents are as follows:

Thirty-five (35) 4,130 cubic foot capacity, 177 ton, Aluminum Rapid Discharge Hopper Railroad Cars reporting marks CYMX and numbered 1 through and including 35.

A fee of \$44.00 is enclosed for the recording of these two documents.

Please return the original of each document to Walter D. Enick, Esquire, Strassburger McKenna Gutnick & Potter, 322 Boulevard of the Allies, Suite 700, Pittsburgh, Pennsylvania 15222, counsel to Senstar Finance Company, Lessor.

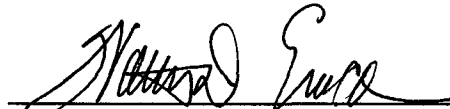
A short summary of the documents to appear in the index follows:

Primary Documents.

An Equipment Lease Agreement and Lease Supplement No. 076100 between Senstar Finance Company, Lessor, One Oxford Centre, 36th Floor, 301 Grant Street, Pittsburgh, Pennsylvania 15219 and Cyprus Cumberland Resources Corporation, 145 Elm Street, Waynesburg, PA 15370, dated December 31, 1996 and covering thirty-five (35) 4,130 cubic foot capacity, 177 ton, Aluminum Rapid Discharge Hopper Railroad Cars reporting marks CYMX and numbered 1 through and including 35.

Please call me collect at (412) 281-5423 if you have any questions with the enclosed documents or if you need any additional information in connection with the recording of the enclosed documents.

Very truly yours,



Walter D. Enick, Esquire
Strassburger McKenna Gutnick & Potter
Counsel to Senstar Finance Company, Lessor

WDE/klh
Enclosures

cc: Keith J. Tucker (w/enclosures)
Susan Chetlin, Esquire (w/enclosures)

SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423-0001

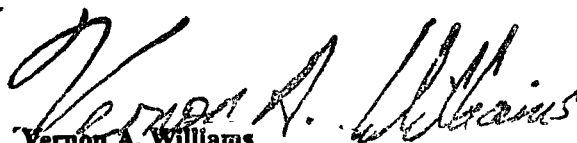
1/14/97

Walter D. Enick
Strassburger McKenna Gutnick & Potter
322 Boulevard Of The Allies
Ste. 700
Pittsburgh, Pennsylvania 15222

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 1/14/97 at 3:45PM, and assigned recordation number(s). 20483 and 20483-A.

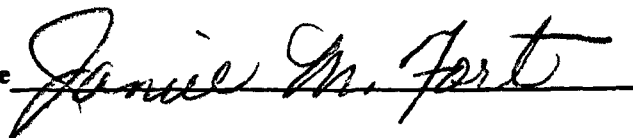
Sincerely yours,


Vernon A. Williams
Secretary

Enclosure(s)

\$^{44.00} The amount indicated at the left has been received in payment of a fee in connection with a document filed on the date shown. This receipt is issued for the amount paid and in no way indicates acknowledgment that the fee paid is correct. This is accepted subject to review of the document which has been assigned the transaction number corresponding to the one typed on this receipt. In the event of an error or any questions concerning this fee, you will receive a notification after the Commission has had an opportunity to examine your document.

Signature



RECORDED AT 20483

JAN 14 1997 3:41 PM

EQUIPMENT LEASE AGREEMENT

LESSOR: SENSTAR FINANCE COMPANY
301 Grant Street
Pittsburgh, Pennsylvania 15219-1413

LESSEE: CYPRUS CUMBERLAND RESOURCES CORPORATION
145 Elm Drive
Waynesburg, Pennsylvania 15370

1. **Lease of Equipment.** Subject to the terms of this Equipment Lease Agreement (together with all Supplements and Exhibits hereto, the "Lease"), Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor the equipment (together with all attachments, replacements, parts, additions, and repairs incorporated therein and affixed thereto, the "Equipment") initially or hereafter described in each and all Supplements hereto signed by the parties and thereby made a part hereto. Lessee agrees to execute, and, if necessary file, all Supplements, financing statements and Bills of Sale and other documents which Lessor may deem reasonably necessary or appropriate to effectuate the intent of this Lease.

2. **Term.** The term of any lease of Equipment pursuant to this Lease shall be as set forth in this Lease and on the Supplement specifically applicable to that Equipment. In no event shall Lessee be permitted to cancel this Lease and the lease term of any Equipment leased hereunder shall not be altered in any way without the Lessor's permission.

3. **Rent.** The rent due for the lease of the Equipment shall be the amount set forth on the applicable Supplement. The date of the first payment shall be set forth on the applicable Supplement and each successive payment shall be due on the same day of each month thereafter. Rent is an absolute obligation of the Lessee, and shall be payable irrespective of any claims, demands, set-offs, actions, suits, or proceedings, that Lessee may have or assert against Lessor, the manufacturer or other supplier of the Equipment, or any other third party. Rent shall be payable to the Lessor at such address as shall be designated by the Lessor on the Supplement. In the event that any rental or other payment is not made by the Lessee when due hereunder, the Lessee agrees to pay a late charge equal to one and one-half (1½) percent per month on the average daily balance of the overdue payments, but not to exceed the maximum amount permitted by law. All payments received from the Lessee shall be applied first to any unpaid late charges or other fees or charges, at Lessor's discretion, and then to the installments due.

Notwithstanding any provision herein to the contrary, should Lessee be delayed or prevented from using the Equipment for its intended purpose by reason of or as a result of any force majeure, Lessee shall temporarily be excused from making rent payments due hereunder, after written notice to Lessor prior to any scheduled payment due date, for a period not to exceed six (6) months, and the term of this Lease shall be extended and continued for such period as Lessee is so excused. At the time such force majeure ceases, or six-months after

the initial occurrence or such force majeure, or when the aggregate of all prior force majeure events totals six (6) months, whichever is earlier, the payment obligations and conditions of the Lease shall be reinstated in full force and effect.

For each payment date during which any force majeure shall have delayed or prevented Lessee from using the Equipment for its intended purpose, Lessee agrees to pay to Lessor the amount set forth on Exhibit "C" and attached to the applicable Supplement. The amount on the Exhibit corresponding to the first payment date during which a force majeure delays or prevents Lessee from performing under the Lease shall be paid to Lessor upon such payment date and upon each subsequent payment date during which the force majeure continues. Payments made to Lessor under this paragraph while such force majeure is in effect shall not serve to reduce or extinguish Lessee's obligations to make full Lease payments for the extended term of the Lease once such force majeure ceases. Lessor shall provide a new Casualty/Termination Table for each period that any force majeure shall have excused Lessee from making rent payments as provided for herein.

No force majeure or series of forces majeure shall result in the temporary excuse of payments and corresponding extension of the Lease term for a period of more than six (6) months.

The terms "force majeure" as used herein means acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemy, blockades, wars, insurrections, or riots; landslides, earthquakes, fires, storms, floods, governmental restraints, whether federal or state, civil or military; civil disturbances; explosions, inability to obtain necessary materials, supplies, labor, or permits due to existing or future rules, regulations, orders, laws, or proclamations, whether federal or state, civil or military, and other causes beyond the control of Lessee

4 Risk Management. Lessee hereby bears and assumes all risk and liability for, and Lessee hereby agrees to indemnify, defend and hold harmless Lessor from any and all claims, liens, demands, or liabilities, cost and expenses, including reasonable attorneys' fees arising out of the use, handling, repairs to, operation, maintenance, and storage of the Equipment and the loads thereon, including death, personal injury, damage to property, claims by the Lessee's employees, agents, and servants and all other liability howsoever arising with respect to the Equipment, the ownership or the leasing thereof during the continuance of the Lease and until the return of such Equipment or from or because of the condition of such Equipment after use by Lessee. If Lessor is subjected to any expense or liability because of any default or breach by the Lessee, or failure by Lessee to comply with any law or regulation, representation, warranty, covenant or undertaking herein, then, upon written notice to the Lessee of the nature and/or amount thereof and Lessee reasonably agrees with such claim, the Lessee shall forthwith discharge the same, and if not so discharged, and if the Lessor shall incur any out-of-pocket expense by reason thereof, the amount of such expense shall be added to the installment of rent next falling due. The indemnities and assumptions of liability herein provided for shall continue in full force and effect with respect to claims based upon losses occurring during the continuance of the Lease and until return of such Equipment notwithstanding the termination of the Lease, whether by expiration of time, by operation of law, or otherwise.

Lessee shall be responsible for any loss, theft of or damage to the Equipment and Lessee shall, at its own expense, maintain theft, fire and extended coverage insurance on the Equipment for its full replacement value, or such other amount agreed to by Lessor, together with such other insurance as Lessor may require, including but not limited to, liability insurance, in each case with companies, in amounts and under policies which are acceptable to the Lessor. Each insurance policy will name Lessee as an insured and Lessor as additional insured and loss payee as Lessor's interest may appear. Lessee shall, prior to using the Equipment, furnish to Lessor policies or certificates of insurance evidencing such coverage. Each policy shall provide for ten (10) days written notice to the Lessor of the cancellation or material modification thereof. Lessor may, at its option, apply proceeds of such insurance to (i) repair or replace such Equipment or (ii) afford Lessee

a pro rata reduction in the rental payments attributable to such Equipment. Lessee agrees to promptly notify Lessor of any loss of or damage to the Equipment.

In the event that any item of Equipment shall be or become worn out, lost, stolen, destroyed, irreparably damaged in the reasonable determination of Lessee, or permanently rendered unfit for use from any cause whatsoever (a "Casualty Occurrence"), Lessee shall promptly and fully notify Lessor in writing, then on the rental payment date regarding Equipment suffering a Casualty Occurrence, which next succeeds the delivery of such notice (the "Calculation Date"), Lessee shall pay or cause to be paid to Lessor an amount equal to the rental payment or payments due and payable on such date plus a sum equal to the dollar amount set forth next to the Calculation Date described on the Casualty/Termination Table attached to the applicable Supplement as Exhibit "A" (the "Casualty Value"). In the event of a Casualty Occurrence during the continuation period described in Paragraph 13 hereof or the extension period as described in Paragraph 17 hereof, the Lessee shall pay the Lessor the greater of : (i) the Fair Market Value as defined below in Paragraph 16(a)(i) of the Equipment immediately prior to the Casualty Occurrence; or (ii) the last dollar amount as set forth on the Casualty/Termination Table. Upon the making of such payment, the rental for such Equipment shall cease to accrue, the term of the lease of that Equipment shall terminate, and title to the applicable item of the Equipment shall pass to the Lessee.

5. **Taxes and Other Fees.** Lessee shall pay when due all sales, use, excise, gross receipts, value added, personal property, stamp, documentary, and ad valorem taxes, license and registration fees, assessments, fines, penalties, and other charges imposed on the ownership, possession, use, sale, rental shipment, or transfer of title of the Equipment during the lease term, and shall pay or reimburse Lessor for all taxes imposed on Lessor or Lessee with respect to the rental of Equipment (whether seen or unforeseen and whether or not expressly provided for herein), other than taxes measured by net income. Lessee will at all times keep each item of Equipment free and clear of all liens which might in any way affect the title of Lessor thereto.

6. **Shipment and Location of Equipment.** The Equipment shall be shipped directly from the manufacturer or distributor thereof to Lessee. Lessor shall not be liable to Lessee for any failure or delay in obtaining delivery of any Equipment. Upon delivery of the Equipment Lessee shall inspect such Equipment and unless Lessee gives prompt written notice of any defect or other proper objection to the Equipment, Lessee shall execute and deliver to Lessor a written acknowledgment of delivery and acceptance in form and substance satisfactory to Lessor (a "Delivery and Acceptance Acknowledgment") covering such Equipment. Lessee's execution of a Delivery and Acceptance Acknowledgment shall conclusively establish, as between Lessor and Lessee, that such Equipment has been unconditionally accepted by Lessee for all purposes of this Lease.

Each item of Equipment shall be delivered to the location specified in the Supplement relating thereto and shall not thereafter be removed from such location without the prior written consent of Lessor.

7. **Conditions Precedent.** The obligation of Lessor to purchase the Equipment and lease it to Lessee is expressly contingent on the receipt by Lessor of such documents executed by Lessee as Lessor reasonably deems necessary or desirable.

If Lessor shall so request, Lessee shall execute and deliver to Lessor such documents as Lessor shall reasonably deem necessary.

8. **Lessee's Warranties, Representations and Covenants.** Lessee warrants, represents and covenants for the benefit of the Lessor, and if requested by Lessor, Lessee will provide an opinion of counsel and other supporting documents to the effect, that, as of the date hereof and until the expiration of the lease term, the following representations, warranties and covenants are and shall remain true:

- (a) Lessee is and shall remain duly organized, validly existing and in good standing under the laws of the State of Lessee's incorporation and is and shall remain qualified to do business under the laws of all other states and jurisdictions where such qualification by Lessee is required by such other state(s) and jurisdiction(s), and has and shall maintain all requisite power and authority, corporate and otherwise, to conduct its business, to own its property and to execute, deliver and perform all of its obligations under this Lease.
- (b) This Lease has been duly authorized, executed and delivered by Lessee and constitutes a valid, legal and binding agreement of the Lessee, enforceable in accordance with its terms.
- (c) The execution, delivery and/or performance by Lessee of this Lease does not and will not (i) constitute a violation of any applicable law, or a breach of any provision contained in Lessee's Articles of Incorporation or By-laws, or contained in any order of any court or other governmental agency or in any agreement, instrument or document to which Lessee is a party or by which Lessee or any of its properties is bound; or (ii) result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of Lessee's properties or on the Equipment.
- (d) Lessee is not, to the best of Lessee's knowledge following diligent inquiry, and shall not be in violation of any applicable statute, regulation or ordinance of any governmental entity (including, but not by way of limitation, any such statute, regulation or ordinance relating to ecology, human health or the environment), in any respect materially and adversely affecting the Equipment or Lessee's business, assets, operations or condition, financial or otherwise

9. **Manufacturer's Warranties.** Lessee acknowledges and agrees that (i) each item of Equipment is of a size, design, capacity and manufacture selected by Lessee, and (ii) it is satisfied that such item is suitable for its purposes. Lessor shall not be liable to Lessee for any claim, loss, damage, (direct or consequential) or expense of any kind or nature, caused directly or indirectly by any deficiency, defect, or inadequacy of the Equipment or the use or maintenance of it, or any repairs, servicing or adjustments to it or any interruption, loss of service, or any loss of business, or any damage whatsoever and however caused. **LESSOR SHALL NOT, BY VIRTUE OF HAVING LEASED EQUIPMENT UNDER THIS LEASE AGREEMENT, BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, WHETHER WRITTEN OR ORAL, OR EXPRESSED OR IMPLIED, AS TO THE MERCHANTABILITY, FITNESS (FOR USE OR FOR ANY PARTICULAR PURPOSE), DESIGN OR CONDITION OF OR AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP IN THE EQUIPMENT, AND ANY SUCH WARRANTY IS SPECIFICALLY DISCLAIMED.**

Lessor authorizes Lessee at Lessee's expense to assert all of Lessor's rights under any applicable manufacturer's warranty, and Lessor agrees to cooperate with Lessee to assert these rights. Nothing herein is intended to negate any manufacturer's warranty of the Equipment, and nothing herein shall be deemed to waive or release any claim Lessee may now or hereafter have against the dealer or manufacturer of the Equipment.

10. Title to Equipment. Title to Equipment leased hereunder shall remain with the Lessor at all times and Lessee shall at all times at Lessee's expense, protect and defend Lessor's title thereto against all claims, liens and legal processes of Lessee's creditors or persons claiming through Lessee. Lessee shall have no right, title or interest in or to the Equipment except as expressly set forth herein. The Equipment shall remain personal property, notwithstanding the manner in which it may be affixed to any real property. Lessee shall obtain and cause to be recorded, where appropriate, at its own expense, from each landlord, owner, mortgagee or any person having an encumbrance or lien on property where any Equipment is located, waiver of any lien, encumbrance or interest which such person might have or hereafter obtain or claim with respect to any Equipment. Lessee will otherwise take all action required to keep the Equipment free and clear of all levies, liens and encumbrances which result from any act or omission of the Lessee.

Lessee shall not, by operation of law or otherwise, assign, transfer or otherwise dispose of any Equipment or interest therein or in this Lease, nor impair in any way the Lessor's title to the Equipment. With prior written consent of Lessee, which shall not be unreasonably withheld, Lessor may sell, negotiate, pledge, assign or otherwise transfer this Lease, or any portion thereof, and the Equipment. Such transfer shall carry with it Lessor's rights and remedies under this Lease and all of Lessor's rights, title and interest in and to the Equipment, and the transferee shall become vested with such rights and remedies whether or not they are specifically referred to in the transfer.

11. Quiet Enjoyment. Lessor hereby agrees that neither Lessor nor any party acting through or under Lessor will take any action, other than pursuant to Paragraph 19 and 20 of this Lease, to prevent the Lessee from having quiet and peaceable possession and enjoyment of the Equipment during the Term of this Lease. Lessor agrees to reimburse Lessee for any reasonable out-of-pocket costs and expenses, including legal fees, incurred by Lessee pursuant to an enforcement action against Lessor arising out of a breach by Lessor of this Paragraph 11.

12. Marking of Equipment. Lessor shall have the right to mark or direct Lessee to mark each item of Equipment in a distinct and conspicuous manner with the name of the Lessor followed by the words "Owner and Lessor" or other appropriate words designated by Lessor. Lessee shall not alter, deface or remove any of Lessor's ownership identification plates or markings on any item of Equipment and, upon Lessor's request, Lessee shall affix or re-affix such identification.

13. Use of Equipment. All maintenance of the Equipment shall be the responsibility of the Lessee. Lessee will keep the Equipment in good operating condition, repair and appearance (all in accordance with the manufacturer's instructions), reasonable wear and tear excepted, and replace, rebuild or overhaul any Equipment, component thereof and accessory thereto where and when recommended by the manufacturer or necessary in order to insure that any such Equipment, component thereof and accessory thereto shall continue to fulfill its intended function or use or where required by any regulation of MSHA, OSHA, the EPA and any other governmental agency or body having jurisdiction over the use, and maintenance of the Equipment. Lessee must use the Equipment in a careful and proper manner in conformity with (1) all statutes, rules, orders and regulations of each governmental authority having jurisdiction over the Lessee and/or the Equipment and its use, operation, maintenance or storage thereof and Lessee shall, and does

hereby, indemnify Lessor and agrees to hold Lessor harmless from any and all liability that may arise from any infringement or violation of any such law, rule, regulations or order by Lessee, or Lessee's employees or other agents and (ii) all policies of insurance relating to the Equipment and/or its use. In addition, Lessee shall not use any item of Equipment in any manner that would impair the applicability of manufacturer's warranties or render any item of Equipment unfit for its originally intended use, nor permit anyone other than authorized and competent personnel to operate any Equipment. Lessee shall not, without Lessor's prior written consent, affix or install any accessory, equipment, device, advertising matter or insignia to any Equipment if such addition will impair the originally intended function or use. All replacements, repairs, parts, supplies, accessories, devices or other items furnished or affixed to any Equipment shall thereupon become Lessor's property (excepting such thereof as may be removed without in any way affecting or impairing the originally intended function or use), and Lessee shall arrange that there be delivered promptly to Lessor all instruments or documents as may be necessary to evidence Lessor's original and free, clear and unencumbered title thereto and ownership thereof. Upon Lessor's request and reasonable notice, Lessee will allow Lessor or its agent, during normal business hours to inspect the Equipment and all books and records pertaining thereto and shall permit Lessor to make such copies of Lessee's books and records as Lessor deems necessary.

14. Return of Equipment. Unless Lessee has elected to exercise the Purchase Option described in Paragraph 17 hereof, or unless the lease term is extended as described in Paragraph 18 hereof, Lessee shall be required to return the Equipment, freight and insurance prepaid (i) to a location, designated by Lessor, within a radius of 500 miles of the site of the last use of the Equipment by Lessee, with all costs of transporting the Equipment to such location designated by Lessor to be borne by Lessee, or (ii) to any other location within the continental United States designated by Lessor, with all costs of transporting the Equipment for the first 500 miles of the distance to such location designated by Lessor to be borne by Lessee and with all incremental costs of transporting the Equipment for that portion of the distance to such location which exceeds 500 miles to be borne by Lessor. Lessee shall bear the expense of loading the Equipment on trucks or railcars, as the case may be, and unloading the Equipment at the location designated by Lessor pursuant to this Paragraph 14. In the event Lessee does not return the Equipment at the expiration of the then current term, this Lease shall continue, at Lessor's sole option and in addition to all remedies provided hereunder, until the Equipment is surrendered to Lessor; and during said continued term, the terms of this Lease shall remain in full force and effect including the obligation to pay rent at the same intervals as set forth in the applicable Supplement, except that the rent during said continued term shall be equal to the highest amount of rent due during the term of the Lease immediately preceding said continuation.

15. Federal Tax Indemnification.

- (a) Lessee understands and acknowledges that as owner of the Equipment, Lessor intends to utilize the depreciation deductions ("Depreciation Deductions") provided for by the Internal Revenue Code. Accordingly, Lessee represents and covenants that it has not taken, and shall not take or omit to take, any action which may result in the loss to Lessor of the Depreciation Deductions.
- (b) In the event that Lessor shall either lose or not have the right to claim the Depreciation Deductions, for any reason whatsoever (a "Tax Loss"), then, subject to the exceptions set forth in subparagraph (d) hereof, on and after the next succeeding rental payment date after written notice to the Lessee by the Lessor that a Tax Loss has occurred, the Lessee will pay as additional rent an amount, for such item or items of Equipment as are affected by the Tax Loss, which after the deduction of all taxes required to be paid by the Lessor by virtue

of its receipt of such amounts and after taking into account the effects of any interest or penalty required to be paid by the Lessor as a result of such Tax Loss, in the reasonable opinion of the Lessor, will cause the Lessor's net after tax rate of return over the term of the Lease in respect of such item or items of Equipment to equal the net after tax return that would have been available if the Lessor had been entitled to the full Depreciation Deductions. The foregoing indemnity shall continue in full force and effect notwithstanding the expiration or termination of the Lease or of the lease term of the Equipment. For the purpose of the foregoing computation, Lessor shall be assumed to be paying federal, state and local taxes at the highest rate applicable to Lessor. Appropriate adjustment to the Casualty Value will be made upon payment of the amount set forth above.

- (c) For purposes of this Paragraph 15, a Tax Loss shall occur upon the payment by the Lessor to the Internal Revenue Service of the tax increase resulting from such Tax Loss. Lessor shall promptly notify the Lessee of same in writing, whereupon the Lessee shall have the option, within thirty (30) days after receipt of such notice from the Lessor to either (i) pay the additional rent provided in the preceding subparagraph (b) with respect to such Tax Loss, or (ii) notify the Lessor in writing of its desire to contest such Tax Loss. Lessee shall be entitled to elect option (ii) only after delivery to Lessor of an opinion of tax counsel, in form and substance reasonably satisfactory to Lessor, that Lessee has a meritorious defense and upon a representation that such Tax Loss will be contested in good faith and by appropriate proceedings. Upon proper selection of option (ii), the Lessee's obligation to pay such additional rent shall be deferred until the conclusion of such proceedings, any cost or expenses incurred in connection with such proceeding shall be borne by the Lessee and the Lessor shall cooperate in securing a final determination of the matter. Lessee shall reimburse Lessor, upon request, for Lessor's reasonable out-of-pocket expenses incurred in connection with all proceedings hereunder.
- (d) Anything to the contrary contained herein notwithstanding, the Lessor will not be entitled to payment of additional rent as described in this Paragraph 14 as a result of the Tax Loss due solely to one or more of the following events:
 - (i) Lessor's failure to properly claim the Depreciation Deductions on its income tax returns for the appropriate year.

- (ii) Lessor's failure to have sufficient taxable income against which to offset the full amount of such Depreciation Deductions;
- (iii) the sale or other transfer whether voluntarily or involuntarily of any item or items of Equipment by the Lessor prior to any default by the Lessee;
- (iv) any event, which, by the terms of this Lease, requires a payment by the Lessee of the Casualty Value, if such Casualty Value is thereafter paid by Lessee; or
- (v) any change in the Internal Revenue Code or administrative or judicial interpretations thereof, with an effective date that follows the applicable in-service date with respect to any item or items of Equipment, which causes the Lessor to lose or not have the right to claim the Depreciation Deductions.
- (vi) a foreclosure by any person holding a lien through Lessor on the Equipment, which foreclosure results solely from an act of Lessor, or;
- (vii) intentional misconduct or gross negligence of Lessor.

Lessor

16. Furnishing Financial Information. During the term of this Lease, Lessee will furnish

- (a) Within one hundred twenty (120) days after the end of each of Lessee's fiscal year, a financial statement of Lessee as at the close of such fiscal year, prepared in accordance with generally accepted accounting principles
- (b) In a timely manner such financial statements, reports and other information as the Lessee shall send from time to time to its stockholders or file with the Securities and Exchange Commission and other materials which Lessor shall reasonably request.

17. Purchase Option.

- (a) Except as set forth in Paragraph 18 hereof, and provided that this Lease has not been earlier terminated and Lessee is not in default hereunder:
 - (i) At least one-hundred fifty (150) days prior to the expiration of the then current term, Lessee shall have the right to send written notice to the Lessor that Lessee may wish to purchase all but not less than all of the Equipment at the end of the then current term in accordance with subparagraph 17(b)(i) hereunder. Following Lessor's receipt of such notice, the Lessor and the Lessee shall consult together for the purpose of determining the Fair Market Value (as defined below) of the Equipment as of the end of the then current term. Notwithstanding the foregoing, Lessor shall, at all times, have the option to initiate the process for determining the Fair Market Value (as defined below) of the Equipment

to facilitate Lessee's purchase of the Equipment at the expiration of the then current term by providing written notice to the Lessee at least one-hundred fifty (150) days prior to the expiration of the then current term. The "Fair Market Value" shall be determined on the basis of, and shall be equal in amount to the value which would be obtained in an arm's-length transaction between an informed and willing lessee-user or buyer-user, as the case may be, (other than [A] a lessee currently in possession and [B] a used equipment dealer) and an informed and willing lessor or seller, as the case may be, under no compulsion to rent or sell; and in such determination the costs of removal shall not be a deduction therefrom.

(ii) If ninety (90) days prior to the expiration of the then current term Lessor and Lessee have not agreed upon a determination of the Fair Market Value of the Equipment, such undetermined value shall be determined, in accordance with the foregoing definition, by a qualified independent appraiser mutually selected by both Lessee and Lessor, or if unable to select an appraiser, by a panel of three independent appraisers, one of whom shall be selected by Lessor, the second by Lessee and the third designated by the first two selected. If any party refuses or fails to appoint an appraiser or a third appraiser cannot be agreed upon by the other two appraisers, such appraiser or appraisers shall be selected in accordance with the rules for commercial arbitration of the American Arbitration Association. The appraiser(s) shall, at the equally shared expense of Lessee and Lessor, make such determination within a period of thirty (30) days following appointment and shall promptly communicate such determination or determinations in writing to the Lessor and the Lessee. The determination or determinations so made shall be conclusively binding upon both Lessor and Lessee.

(b) Following determination of the Fair Market Value as aforesaid, and provided that Lessee is not then in default under the Lease, Lessee shall have the right but not the obligation, to:

(1) Purchase all but not less than all of the Equipment at the end of the then current term for a price equal to the Fair Market Value of such property by notifying Lessor in writing, at least sixty (60) days prior to the expiration of the then current term, of Lessee's election to purchase such property, and by paying to Lessor the full purchase price of the property in cash on or prior to the expiration of said term. No such purchase can occur until Lessee has made payment of all rental amounts due with respect to the Equipment as of the date of the purchase and any applicable sales, use or other taxes.

- (c) Upon any purchase by Lessee hereunder, Lessor shall transfer title to the item or items of Equipment purchased to the Lessee on an **AS IS, WHERE IS BASIS, WITHOUT REPRESENTATIONS OR WARRANTIES WHATSOEVER** except that Lessor shall deliver title free of any lien or encumbrance created by an act of the Lessor.

18. Extension. In the event that either Lessee or Lessor shall fail to initiate the process for determining Fair Market Value in accordance with Paragraph 17(a)(i) hereof on or before one-hundred fifty (150) days prior to the expiration to the then current term, then either Lessee or Lessor, at their option, at any time thereafter may choose to initiate said process by providing written notice to the other party, in which case the lease term shall be extended so that the lease term shall terminate one-hundred fifty (150) days from the respective party's receipt of said notice; and during said extended term, the terms of this lease shall remain in full force and effect including the obligation to pay rent at the same intervals as set forth in the applicable Supplement, except that the rent during said extended term shall be equal to the highest amount of rent due during the term of the lease immediately preceding said extension.

19. Default. An event of default shall occur hereunder ("Event(s) of Default") if: (i) Lessee fails to pay any sum to be paid hereunder or in any Supplement within ten (10) days of when it is due herein, (ii) Lessee fails to perform or observe any other duty, obligation or covenant contained herein or in any Supplement; (iii) Lessee shall have made a materially untrue or incorrect representation or warranty herein or in any document delivered in connection herewith; (iv) Lessee fails to pay any sum when due or perform any other term, provision, duty, warranty, obligation, representation or covenant in any other agreement between Lessor and Lessee, (v) Lessee becomes insolvent (that is, unable to pay its debts as they mature) or commits an act of bankruptcy or becomes the subject of any proceedings under the Bankruptcy Code as amended or any other insolvency law or law providing for the relief of debtors, (vi) Lessee shall suffer any substantial part of its property to be subject to any levy, seizure, assignment, application or sale by or for the benefit of any creditor or governmental agency or shall suffer an entry of any Court order enjoining its business, (vii) Lessee shall have rendered against it any other levy or attachment which has or may have a material adverse effect on Lessee's financial condition, (viii) Lessee dissolves or terminates its existence, or sells a controlling interest in, or a substantial amount of the assets of, its business; or shall merge into a surviving business unless agreed to by Lessor. Notwithstanding anything herein to the contrary and except for Paragraph 19 (i), Lessee shall have a fifteen (15) day period to cure any claim of default hereunder upon written notice from Lessor

20. Remedies. Upon the happening of any Event of Default hereunder, the rights and duties of the parties shall be as follows

- (a) Lessor may terminate Lessee's rights under this Lease for the Equipment, which termination shall not affect Lessee's obligations hereunder and the Equipment shall be promptly delivered to a location designated by Lessor or Lessee shall make the Equipment available for retaking and authorizes Lessor, its employees and nominees to enter the premises of the Lessee and any other premises (insofar as Lessee can permit) for the purpose of retaking. In the event of retaking, Lessee expressly waives all rights to possession and all claims for injuries suffered through or loss caused by retaking. Any repossession accomplished hereunder shall not release Lessee from liability for damages of Lessor sustained by reason of Lessee's default hereunder.
- (b) Lessor may revoke Lessee's privilege of paying rent in installments and, upon

Lessor's demand, the portion of the rent then remaining unpaid plus all other sums due and unpaid shall promptly be paid to Lessor.

- (c) Upon retaking the Equipment, any retention or sale of the Equipment by the Lessor shall be made in conformity with all applicable provisions of Article Nine of the Uniform Commercial Code of the Commonwealth of Pennsylvania, which provisions shall apply because of the agreement of the parties, and not because the terms of the Uniform Commercial Code are otherwise applicable to this Lease Agreement. Lessor shall further be entitled to a deficiency for the amount still unpaid after the proceeds from the resale of the Equipment are applied to the dollar amount set forth on the Casualty/Termination Table attached to the applicable Supplement as Exhibit "A" (the "Termination Value") of such Equipment, immediately following the date of the resale (or the final Termination Value if the then current term of this Lease has expired), plus all rent and other monies due, all reasonable attorneys' fees and legal expenses incurred by the Lessor in asserting Lessor's rights and remedies under this Lease, all reasonable expenses of retaking, holding, preparing for sale and selling the Equipment, and all other damages as may be provided by law.
- (d) Lessor's remedies herein are cumulative and shall be in addition to all other remedies provided by law, and may be exercised concurrently or consecutively. The exercise by the Lessor of any such remedies shall not release Lessee from its obligation hereunder.

21. Merger, Amendments and Waivers. This Lease shall supersede all prior understandings, transactions and communications, oral or written, express or implied, with respect to the matters referred to herein. No term or provision of this Lease may be changed, waived, amended, or terminated except by a written agreement signed by both Lessor and Lessee, except that Lessor may insert on the appropriate Supplement the serial number of any Equipment after delivery thereof. No express or implied waiver by either party hereto of any Event of Default or Lessor breach for any period of time shall prevent either party hereto from later exercising its rights upon such Event of Default or Lessor breach nor shall it be construed to be a waiver of any future or subsequent Event of Default or Lessor breach. Any failure or delay by either party hereto to require strict performance by the other party of any of the provisions, warranties, terms and conditions contained herein or in any other agreement, note, document or instrument, shall not affect the other party's right to demand strict compliance and performance therewith.

22. This is a Lease. Lessor and Lessee hereby agree that this Lease is a lease, that Lessor is the owner of the Equipment and that the relationship between Lessor and Lessee shall always be only that of lessor and lessee.

23. Notices. Service of all notices under this Lease shall be sufficient if given in writing personally or mailed to the party involved at its respective address set forth in the most recent Supplement relating hereto, or at such address as such party may otherwise provide in writing from time to time. Any such notice mailed to such address shall be effective when deposited in the United States mail, duly addressed with first class postage prepaid.

24. **Time.** Time is of the essence in the performance of this Lease and each and all of its provisions.

25. **Severability of Provisions.** If any provision of this Lease Agreement is held invalid or unenforceable, the remaining provisions will not be affected thereby, and to this end the provisions of this Lease are declared severable.

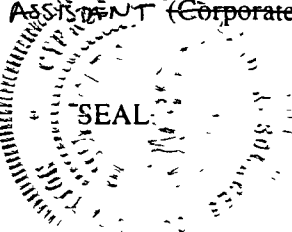
26. **Successors and Assigns.** This Lease shall inure to the benefit of, and be binding upon, the parties hereto and their respective legal representatives, heirs, successors and assigns.

27. **Governing Law.** The validity, interpretation and effect of this Lease shall be governed by the internal laws of the Commonwealth of Pennsylvania. Lessee hereby consents to the jurisdiction of and venue in all courts in said Commonwealth.

IN WITNESS WHEREOF, the parties hereto have executed this Lease on this 31st day of December, 1996.

ATTEST

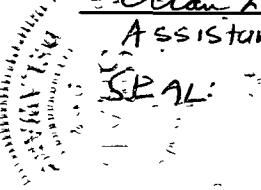
CYPRUS CUMBERLAND RESOURCES CORPORATION
(Lessee)

SECHETLIN
Assistant (Corporate Secretary)

ATTEST
WITNESS

By: Frank J. Wood
Type Name: FRANK J. WOOD
Title: VICE PRESIDENT AND CONTROLLER


SENSTAR FINANCE COMPANY
(Lessor)

By: K. J. Tucker
K. J. Tucker
Vice President

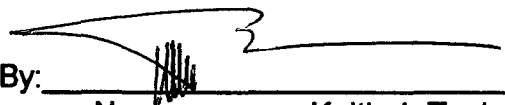
Alan L. Moose
Assistant Secretary


CORPORATE ACKNOWLEDGMENT OF THE
EQUIPMENT LEASE AGREEMENT
AS REQUIRED BY 49 CFR §1177.3

I, FRANK J. WOOD, certify that I am the VICE PRESIDENT AND CONTROLLER of Cyprus Cumberland Resources Corporation, that the seal affixed to the foregoing instrument is the corporate seal of said Corporation, that the instrument was signed and sealed on behalf of the Corporation in accordance with its Delegation of Authority guidelines, and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the Corporation. I further declare and verify under penalty of perjury that the foregoing is true and correct. Executed on this 31st day of December, 1996.

By:  802
Name: FRANK J. WOOD
Title: VICE PRESIDENT AND CONTROLLER

I, Keith J. Tucker, certify that I am the Vice President of Senstar Finance Company, that the seal affixed to the foregoing instrument is the corporate seal of said Corporation, that the instrument was signed and sealed on behalf of the Corporation by authority of its Board of Directors, and that I acknowledge that the execution of the foregoing instrument was the free act and deed of the Corporation. I further declare and verify under penalty of perjury that the foregoing is true and correct. Executed on this 31st day of December, 1996.

By: 
Name: Keith J. Tucker
Title: Vice President